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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,666	12/13/2004	Michal Eisenbach-Schwartz	EIS-Schwartz37	7353

1444 7590 01/19/2007  
BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER
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KOLKER, DANIEL E

ART UNIT	PAPER NUMBER
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1649

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	01/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/517,666	EISENBACH-SCHWARTZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Daniel Kolker	1649	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 7/27/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 21-39 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The preliminary amendment filed 27 July 2005 has been entered. Claims 1 – 21 are canceled; claims 23 – 39 are new.

#### ***Election/Restrictions***

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 23 – 37, each in part, drawn to methods comprising administering cells that have been pulsed with a nervous system (NS)-specific antigen or an analog thereof or a peptide derived from same or an analog thereof.

Group 2, claim(s) 23 – 37, each in part, and 38 – 39, drawn to methods comprising administering cells that have been pulsed with a non-self antigen including Copolymer 1, a Copolymer 1-related peptide or polypeptide, and poly-Glu50,Tyr50.

3. The inventions listed as Groups 1 – 2 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the first claimed technical feature is not a contribution over the prior art. Huang et al. (2000. Clin Exp. Immunol 122:437-444, cited on IDS filed 18 August 2005) teach administration of dendritic cells, which are antigen presenting cells, that have been pulsed with MBP 68 – 86, which is reasonably a NS-specific antigen or an analog thereof. Huang also teaches that the method inhibits the onset of experimental allergic encephalomyelitis (EAE). As EAE is a disease characterized by eventual loss of neurons, the method inhibits neuronal degeneration. Thus the first claimed technical feature is not a special technical feature as it is not a contribution over the prior art, as required by PCT Rule 13.2. The technical feature of Group 1 is not present in the claims of Group 2, and the technical feature of Group 2 is not present in the claims of Group 1. Since there is not a special technical feature which links all inventions unity of invention is lacking. Note that PCT Rule 13 does not allow for examination of multiple methods.

***Requirements for Further Restriction***

4. The claims as written encompass methods of administering multiple patentably distinct products which do not share a common technical feature. Should applicant elect a group that encompasses administration of Copolymer 1, a Copolymer 1-related peptide or polypeptide, or poly-Glu50,Tyr50 applicant must further elect a single compound to be administered for prosecution on the merits. Such further restriction is proper as PCT Rule 13 does not allow for examination of multiple products or for methods of using patentably distinct products.

Copolymer-1 is comprised of four amino acids, each of which is necessary for its function, whereas poly-Glu50,Tyr50 is comprised of two amino acids only. As such, the products do not share a common technical feature and thus claims drawn to administration of said products lack unity of invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Kolker whose telephone number is (571) 272-3181. The examiner can normally be reached on Mon - Fri 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1649

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel E. Kolker, Ph.D.

January 16, 2007



ROBERT C. HAYES, PH.D.  
PRIMARY EXAMINER